

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company for Authority, Among Other Things, To Increase Revenue Requirements for Electric and Gas Service and to Increase Rates and Charges for Gas Service Effective on January 1, 2003. (U 39 M)

Application 02-11-017  
(Filed November 8, 2002)

Application of Pacific Gas and Electric Company Pursuant to Resolution E-3770 for Reimbursement of Costs Associated with Delay in Implementation of PG&E's New Customer Information System Caused by the 2002 20/20 Customer Rebate Program. (U 39 E)

Application 02-09-005  
(Filed September 6, 2002)

Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Service and Facilities of Pacific Gas and Electric Company.

Investigation 03-01-012  
(Filed January 16, 2003)

**OPINION GRANTING INTERVENOR COMPENSATION  
TO AGLET CONSUMER ALLIANCE FOR SUBSTANTIAL  
CONTRIBUTIONS TO DECISION 04-10-034**

This decision awards \$18,106.60 in compensation to Aglet Consumer Alliance (Aglet) for its contribution to Decision (D.) 04-10-034, issued in the storm and reliability phase of the Pacific Gas and Electric Company (PG&E) test year 2003 general rate case.

## **1. Background**

Decision 04-10-034 evaluated PG&E's response to the December 2002 storms, approved customer information initiatives, endorsed certain service reliability agreements reached by PG&E and the Commission's Office of Ratepayer Advocates (ORA), as modified, and adopted a performance incentive mechanism proposed by PG&E and the Coalition of Utility Employees, as modified.

Aglet participated in the storm and reliability phase of the underlying proceeding by presenting testimony and cross-examining witnesses at the hearing, preparing and filing opening and reply briefs, and participating in settlement negotiations. It contributed to the proceeding through these actions. Aglet also participated in the earlier revenue requirement phase of this proceeding, and, as a result, was awarded approximately \$98,000 in compensation, by D.05-01-028, for its significant contributions to D.04-05-055.

## **2. Requirement for Awards of Compensation**

The intervenor compensation program, which is set forth in Pub. Util. Code §§ 1801 through 1812, requires a utility to pay the reasonable costs of an intervenor's participation in a Commission proceeding if the intervenor makes a substantial contribution to the Commission's order or decision. (§ 1802.5.) In order to receive an award of compensation under the program an intervenor must:

- a.) Satisfy certain procedural requirements, including the requirement to file a notice of intent (NOI) to claim compensation within 30 days of the prehearing conference, or as otherwise provided under § 1804, subdivision (a)(1).

- b.) Be a customer or a participant representing consumers, customers, or subscribers of a utility subject to our jurisdiction. (§ 1802(b).)
- c.) File and serve a request for a compensation award within 60 days of our final order or decision in a hearing or proceeding. (§ 1804(c).)
- d.) Demonstrate “significant financial hardship.” (§§ 1802(g), 1804(b)(1).)
- e.) Through its presentation, have made a “substantial contribution” to the proceeding through the adoption, in whole or in part, of the intervenor’s contention or recommendations by a Commission order or decision. (§§ 1802(i); 1803(a).)
- f.) Claim fees and costs that are comparable to the market rates paid to experts and advocates having comparable training and experience and offering similar services. (§ 1806.)

For discussion here, the procedural issues in Items a-d above are combined, followed by separate discussions on Items e and f.

### **3. Procedural Matters**

A PHC in this matter was held on January 29, 2003. Aglet timely filed its NOI on February 18, 2003. By Ruling dated April 9, 2003, the assigned Administrative Law Judge (ALJ) determined that Aglet was a Category 3 “customer” (*i.e.* was group organized to represent residential or small commercial customers) under § 1802 (b) In the same ruling, the ALJ also determined that Aglet had fulfilled the NOI eligibility requirements of § 1804 (a), made the requisite showing of financial hardship, and was eligible for compensation. We find that Aglet filed its request for compensation on January 6, 2005, within 60 days of D.04-10-034 being issued. Aglet has satisfied all of the procedural requirements for compensation.

#### 4. Substantial Contribution

To determine that an intervenor made a substantial contribution to a proceeding the Commission must find that the ALJ or Commission adopted one or more of the factual or legal contentions or specific policy or procedural recommendations made by the intervenor (§1802(i)); and if the intervenor's contentions or recommendations paralleled those of another party, that its participation materially supplemented, complemented, or contributed to the presentation of the other party or to the development of a fuller record which assisted the Commission in making its decision (§§1802(i) and 1802.5). In assessing whether the customer satisfies the second requirement, the Commission typically reviews the record, including the intervenor's pleadings and (in litigated matters) the hearing transcripts, and compares them with the findings, conclusions, and orders in the decision. The determination whether the intervenor's presentation substantially assisted the Commission is committed to the Commission's discretion. (D.98-04-059, 79 CPUC2d 628 at 653.) Aglet made a substantial contribution to D.04-10-034 in two respects.

First, with regard to the reliability issues, the Commission ordered PG&E to perform a new value of service study before its next general rate increase, a proposal advanced only by Aglet and The Utility Reform Network (TURN). Aglet's presentation materially complemented that of TURN on this point and influenced the Commission to add this term to its order.

Aglet also advocated that performance of reliability measurements be made on the division level, rather than the system level, to provide a more accurate picture of systemwide reliability. This issue was the subject of settlement negotiations and the Commission concluded that the difference in reliability performance between PG&E's divisions favors adoption of

division-level performance indicators. Although the Commission rejected Aglet's recommendation that primary reliability measurements should be made at the division level, Aglet's basic concept was adopted.

Second, with respect to performance incentives, Aglet, ORA and TURN persuaded the Commission to reject PG&E's proposal to initiate an incentive funding mechanism. Aglet was concerned that earning incentives on the one hand might outweigh efficient resource allocation and activity classification on the other, potentially leading to higher customer rates.

Considering the above issues, we find that Aglet made a substantial contribution to D.04-10-034.

## 5. Requested Compensation

Aglet requests an award of \$18,106.60 for its participation in this proceeding. The request includes the professional time of James Weil, Aglet's Director, and copying costs, postage and overnight delivery expenses. The following is a summary of the request:

70.1 hours for work performed in 2003 @ \$220	\$15,422.00
6.9 hours for work performed in 2004 @ \$250	1,725.00
7.4 hours compensation preparation in 2005 @ \$125	925.00
Copies	16.48
Postage and overnight delivery	18.12
<b>Total request</b>	<b>\$ 18,106.60</b>

Aglet furnished a detailed accounting of the time Weil devoted to this proceeding, for both the earlier revenue requirement phase and the current storm and reliability phase. In its current request, Aglet shows a total of 77 hours work performed by Weil in 2003 and 2004, after discounting all hours included in

its earlier award (D.05-01-028) and all hours where its positions were not adopted.

Aglet claims 7.4 hours work in 2005 for preparation of its compensation request, at one-half (\$125) the 2004 hourly rate. Related expenses for copies, postage and overnight delivery charges total \$34.50.

## **6. Reasonableness of Compensation Request**

Only reasonable fees and costs associated with work that results in a substantial contribution may be compensated under the program. D.98-04-059 additionally directs intervenors to make a demonstration of productivity by assigning to ratepayers a reasonable dollar value for the benefits of the intervenor's participation, and requiring that it bear a reasonable relationship to the benefits realized by the ratepayers. The number of hours claimed for the intervenor's work must also be reasonable.

Aglet contends that no dollar value can be shown to quantify the ratepayer benefits of requiring PG&E to perform a new value of service study, and we agree. More palpable savings (up to \$27 million per year for six years for reliability improvement expenditures, plus additional incentive awards) will result from limitations imposed upon the reliability measurement system. These results demonstrate that the expenditure of Weil's time was productive. The accounting of Weil's hours is also reasonable in light of the scope and timeframe of this proceeding. Aglet's allocation of hours to positions according to page count is rational, considering the magnitude and breadth of the proceeding as a whole.

Weil previously was awarded \$220/hour for work performed in 2003, and \$250/hour for work performed in 2004. In D.04-03-021 and D.04-12-025,

respectively, and we approve these same rates here. Preparation of the compensation request is awarded at half the professional rate.

The itemized direct expenses of \$34.60 submitted by Aglet include related costs for, photocopying, postage and overnight delivery, and we find these expenses reasonable.

## 7. Award

As set forth in the table below, we award Aglet the sum of \$18,106.60 as reasonable compensation for its significant contribution to D.04-10-034.

70.1 hours for 2003 work @ \$220	\$15,422.00
6.9 hours for 2004 work @ \$250	1,725.00
7.4 hours compensation preparation @ \$125	925.00
Copies	16.48
Postage and overnight delivery	18.12
<b>Total request</b>	<b>\$ 18,106.60</b>

Consistent with previous Commission decisions, we order that interest be paid on the award amount (at the rate earned on prime, three-month commercial paper, as reported in Federal Reserve Statistical Release H.15) commencing the 75th day after Aglet filed its compensation request, and continuing until full payment of the award is made.

Commission staff may audit Aglet's records related to this award, and as in all claims for compensation, an intervenor must make and retain adequate accounting and other documentation to support such claim. Aglet's records should identify specific issues for which it requested compensation, the actual time spent by each employee or consultant, the applicable hourly rates and fees paid to consultants, and any other costs for which compensation was claimed.

**8. Waiver of Comment Period**

This is an intervenor compensation matter. Accordingly, as provided by Commission Rule of Practice and Procedure (Rule) 77.7, subdivision(f)(6), we waive the otherwise applicable 30-day comment period for this decision.

**9. Assignment of Proceeding**

Michael Peevey is the Assigned Commissioner, and Burton Matson and Julie Halligan are co-assigned ALJ's in this proceeding.

**Findings of Fact**

1. Aglet made a substantial contribution to D.04-10-034, as described herein.
2. Aglet requested hourly rates for attorneys and experts, and related expenses, that are reasonable when compared to the market rates for persons with similar training and experience.
3. The total of the reasonable compensation is \$18,106.60.
4. The Appendix to the opinion summarizes today's award.

**Conclusions of Law**

1. Aglet has fulfilled the requirements of §§ 1801 through 1812 of the California Public Utilities Code, which govern awards of intervenor compensation, and is entitled to compensation for its substantial contributions to D.04-10-034.
2. Aglet should be awarded \$18,106.60 for its contribution to D.04-10-034.
3. The comment period for this compensation decision should be waived pursuant to Rule 77.7.
4. This order should be effective today so that Aglet may be compensated without further delay.



**O R D E R**

**IT IS ORDERED** that:

1. Aglet Consumer Alliance is awarded \$18,106.60 as compensation for its substantial contributions to Decision 04-10-034.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company shall pay Aglet Consumer Alliance the total award. Payment of the award shall include interest at the rate earned on prime, three-month commercial paper as reported in Federal Reserve Statistical Release H.15, beginning March 22, 2005 , the 75<sup>th</sup> day after the filing date of Aglet's request for compensation, and continuing until full payment is made.

3. The comment period for today's decision is waived.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

### Compensation Decision Summary Information

<b>Compensation Decision:</b>		<b>Modifies Decision?</b> No
<b>Contribution Decision(s):</b>	D0410034	
<b>Proceeding(s):</b>	A0211017, A0209005, I0301012	
<b>Author:</b>	ALJ Halligan	
<b>Payer(s):</b>	Pacific Gas and Electric Company	

### Intervenor Information

<b>Intervenor</b>	<b>Claim Date</b>	<b>Amount Requested</b>	<b>Amount Awarded</b>	<b>Multiplier ?</b>	<b>Reason Change/Disallowance</b>
Aglet Consumer Alliance	1/6/2005	\$18,106.60	\$18,106.60	No	

### Advocate Information

<b>First Name</b>	<b>Last Name</b>	<b>Type</b>	<b>Intervenor</b>	<b>Hourly Fee Requested</b>	<b>Yearly Hourly Fee Requested</b>	<b>Hourly Fee Adopted</b>
James	Weil	Policy Expert	Aglet Consumer Alliance	\$220	2003	\$220
James	Weil	Policy Expert	Aglet Consumer Alliance	\$250	2004	\$250